

as follows:—"It shall be lawful for the Governor in Council to impose upon books imported into Canada, and being copies printed or reprinted in any other country than the United Kingdom, of books first composed or written, printed or published in the United Kingdom, of which the copyright shall be still subsisting, and with regard to which the notice to the Commissioner of Customs required by any Act of the Parliament of the United Kingdom in that behalf shall have been given, an *ad valorem* duty not exceeding twenty per cent., and from time to time to establish such regulations and conditions as may be consistent with any Act of the Parliament of the United Kingdom then in force, as he may deem requisite and equitable with regard to the admission of such books, and to the distribution of such duty to or among the parties beneficially interested in the copyright, and such duty shall be collected in like manner as duties of Customs, and under the provisions of the Act relating to such duties." The duty fixed by the Order-in-Council under the Act was 12½ per cent. *ad valorem*. The Act was approved by the Imperial Government, an Imperial Order-in-Council was issued accordingly, and from that time forward American reprints were virtually free of the Canadian market. In 1868 it was extended to the whole Dominion. We shall allude on another occasion to the effect of this legislation on the book trade of Canada; but what we have in this connection to point out is how completely it overrode the Imperial Copyright Law in the interest of a supply of popular and cheap literature, and how powerful an argument it affords for removing every barrier in the way of that grand desideratum.

CHAPTER IV.

CANADIAN AND UNITED STATES COPYRIGHT LEGISLATION CONTRASTED.

In the British North America Act of 1867, popularly known as the Confederation Act, "copyright" was expressly mentioned as one of the matters over which the Parliament of Canada was to have "exclusive legislative authority." But this term has been held to apply only to the relations of the Dominion to the several Provinces, and not to supersede or abrogate the Imperial Copyright Act of 1842. The copyright legislation of the new Parliament of Canada in 1868 was, virtually, but a continuation of the laws of the old Province. Meantime the book-publishing trade of Canada was assuming very extensive proportions, and so the production of Canadian printed works, in form and price

calculated to supply the home demand and to compete with foreign reprints, increased, and the hardships of the situation became more severely felt. It was urged, reasonably enough, that Canadian publishers should not be placed at a disadvantage in regard to American competition; that if pirated reprints of British works were legally saleable in Canada on paying a small import duty, it was no more than just that Canadian reprints, on which Canadian publishers were willing to pay the same duty, should also be legally saleable. Accordingly, in 1872, the Honourable Senator Ryan, with the assent of the Government of that day, and with the unanimous approval of both Houses, carried a measure through the Dominion Parliament authorizing Canadian publishers to print and publish British copyrighted works on giving bonds securing to the authors or their assigns an *ad valorem* duty of 12½ per cent. The effect of this Act would have been to put the Canadian publisher on a precisely similar footing with his American rival.

But the Act was undoubtedly *ultra vires* in the absence of express sanction by Imperial legislation. The Act of 1847, under which Canada had been authorized to admit foreign reprints, applied to foreign reprints alone, not to Colonial reprints. The Act of 1872 was, therefore, very properly reserved for the signification of Her Majesty's pleasure. Nothing more was heard of it until the two years during which action might be taken by the Imperial Government to give it validity had nearly expired. However, in the session of 1874 an address to the Crown, moved by Hon. Senator Ryan in the Upper House and Mr. Dymond, M.P. for North York, in the Commons, was carried, praying His Excellency the Governor-General "to be pleased to convey to Her Majesty's Principal Secretary of State for the Colonies the expression of the respectful anxiety of this House that a Bill, intitled 'An Act to amend the Act respecting Copyrights,' passed in the session of 1872, and reserved on the 14th of June of that year for the signification of Her Majesty's pleasure thereon, should not be allowed to expire by the expiry of the two years' limitation specified in the 57th section of the 'British North America Act, 1867,'" and "further to assure His Excellency that important interests in this Dominion are prejudiced by the absence of legislation such as this Bill contemplates." The result was a correspondence between Lord Carnarvon, the Colonial Secretary, and the late Government of Canada, the views of the Imperial Government being expressed in a despatch from Lord Carnarvon to the

Governor which I have already quoted. The Act of 1872 was so by the British Government, given, the result would be that the result of 1875, by the Copyright Act of 1872, extended to Canada, "nada," "minors," "having," "with," further shall be published of the an inter month, in Canada reprints work a The Act of the v lute right w ed in C works with the ferred in on p of 1847 Act wa dian A further Canada Let nada a 1. A the Bri Canada tional United Canada Ever titled or any not in Canada shape ford. countr